

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Michael D. Squillace, Jr. d/b/a Vanity Cleaners FILE NO: OCI-HW-14-117

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, ("R.I. Gen. Laws") you are hereby notified that the Director of the Department of Environmental Management (the "Director" of "DEM") has reasonable grounds to believe that the above-named party ("Respondent") has violated certain statutes and/or administrative regulations under the DEM's jurisdiction.

B. Facts

- (1) The property is located at 1658 Cranston Street in the city of Cranston, Rhode Island (the "Property"). The Property includes a facility used for the dry cleaning of clothing (the "Facility").
- (2) Vanity Cleaners is registered with the DEM as a small quantity hazardous waste generator at the Facility pursuant to the DEM's *Rules and Regulations for Hazardous Waste Management* (the "Hazardous Waste Regulations") and pursuant to Title 40 of the Code of Federal Regulations ("40 CFR") under the name of "Vanity Cleaners" with the U.S. Environmental Protection Agency ("EPA") identification number RID018557918.
- (3) On 1 August 2012, the Rhode Island Secretary of State revoked the Certificate of Registration/Organization for Vanity Cleaners, LLC. The Respondent is the last known member of the corporation.
- (4) On 2 December 2014, the DEM inspected the Facility. The inspection revealed the following:
 - (a) Six 15-gallon containers holding hazardous waste, in the form of tetrachloroethylene (a/k/a perchloroethylene) still bottoms and separator water, and one 15-gallon container holding hazardous waste, in the form of filters with tetrachloroethylene, located in the main dry cleaning area in front of the dry cleaning unit (the "180 Day Containers");

- (b) Two 15-gallon satellite accumulation containers holding hazardous waste, in the form of tetrachloroethylene still bottoms and separator water, and one 15-gallon container holding hazardous waste, in the form of filters with tetrachloroethylene, located in the main dry cleaning area in front of the dry cleaning unit (the "Satellite Accumulation Containers");
 - (c) None of the 180 Day Containers were marked with an accumulation date or stored with aisle space of at least 3 feet between containers;
 - (d) Two of the 180 Day Containers were unlabeled;
 - (e) Two of the Satellite Accumulation Containers were unlabeled; and
 - (f) One of the Satellite Accumulation Containers was not marked with the chemical or common name of the waste.
- (5) The DEM inspector spoke with the Respondent at the time of the inspection. The Respondent stated that:
- (a) The company recently began operation of the dry cleaning unit after not doing so for at least 1 year;
 - (b) No hazardous waste shipments have been sent from the Facility for about 1 ½ years;
 - (c) No weekly inspections of the hazardous waste container storage area are performed;
 - (d) No hazardous waste management training was provided to employees who handle hazardous waste;
 - (e) No hazardous waste contingency plan was prepared; and
 - (f) No copies of manifests were maintained for a period of 3 years.
- (6) The DEM reviewed its records, which showed that:
- (a) The Respondent failed to submit a list of agents authorized to sign manifests to the DEM; and
 - (b) The last documented shipment of hazardous waste from the Facility occurred on 12 December 2011.
- (7) On 31 December 2014, the DEM received a copy of a bill of lading from Safety-Kleen System, Inc. that documented the shipment of 6 containers holding hazardous waste to a licensed facility on 24 December 2014.

- (8) As of the date of this Notice of Violation (“NOV”), the Respondent has failed to provide documents to the DEM to demonstrate that it has fully addressed the noncompliance described in paragraphs B(4), B(5) and B(6) above.

C. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **DEM’s Hazardous Waste Regulation 5.14A** – requiring a small quantity hazardous waste generator to obtain a permit from the DEM prior to storing hazardous waste in non-satellite accumulation containers for greater than 180 days.
- (2) **DEM’s Hazardous Waste Regulation 5.14B1** - requiring that a hazardous waste generator mark containers holding hazardous waste with the date upon which the waste first began to accumulate.
- (3) **DEM’s Hazardous Waste Regulation 5.14D1** – requiring that a hazardous waste generator label each container, excluding satellite accumulation containers, holding hazardous waste with the words “Hazardous Waste”, the chemical or common name of the waste and the name, address and EPA identification number of the generator.
- (4) **DEM’s Hazardous Waste Regulation 5.9A** – requiring that a hazardous waste generator label all satellite accumulation containers holding hazardous waste with the words “Hazardous Waste” and the chemical or common name of the waste.
- (5) **DEM’s Hazardous Waste Regulation 5.10** – requiring that a hazardous waste generator maintain adequate aisle space of at least 3 feet between rows of containers in all areas of the facility where hazardous waste is stored to allow for the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment.
- (6) **DEM’s Hazardous Waste Regulation 5.14B8** – requiring that a hazardous waste generator conduct weekly inspections of all containers holding hazardous waste looking for leaking containers and signs of deterioration caused by corrosion or other factors and maintain documentation of the inspection of each hazardous waste storage area for a period of at least 3 years.
- (7) **DEM’s Hazardous Waste Regulation 5.14E** – requiring that a hazardous waste generator provide training to company employees who handle and/or manage hazardous waste..
- (8) **DEM’s Hazardous Waste Regulation 5.14H** – requiring that a hazardous waste generator who fails to comply with the stated requirements must prepare and maintain a contingency plan designed to minimize hazards to human health or the

environment from fires, explosions or unplanned releases of hazardous waste or constituents to the air, soil or surface water.

- (9) **DEM's Hazardous Waste Regulations 5.8A1** – requiring that a hazardous waste generator maintain onsite a copy of each manifest prepared for offsite shipment of waste for a period of at least 3 years.
- (10) **DEM's Hazardous Waste Regulation 5.7** – requiring that a hazardous waste generator submit to the DEM a list of agents authorized by the company to sign uniform hazardous waste manifests for shipments of hazardous waste.

D. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to **within 30 days of receipt of the NOV**:

- (1) Remove all hazardous waste from the Property that has been stored for greater than 180 days, excluding satellite accumulation containers, using a permitted hazardous waste transporter, ship the hazardous waste to a licensed Treatment, Storage and Disposal Facility (the “Designated Facility”) and submit a copy of the uniform hazardous waste manifest signed by the Designated Facility to the DEM Office of Compliance & Inspection (“OC&I”);
- (2) Mark all containers holding hazardous waste, excluding satellite accumulation containers, with the date upon which the hazardous waste first began to accumulate;
- (3) Label all containers holding hazardous waste, excluding satellite accumulation containers, with the words “Hazardous Waste”, the chemical or common name of the waste and the name, address and EPA identification number of the generating facility;
- (4) Label all satellite accumulation containers holding hazardous waste with the words “Hazardous Waste” and other words identifying the contents of the container;
- (5) Provide a minimum of 3 feet of aisle space around containers holding hazardous waste throughout the Facility to allow for the unobstructed movement of personnel and emergency equipment;
- (6) Begin conducting weekly inspections of the hazardous waste containers looking for leaking containers and signs of deterioration caused by corrosion or other factors and maintain documentation onsite of the inspection of each hazardous waste storage area for a period of at least 3 years;
- (7) Provide hazardous waste management training to Facility personnel that manage/handle hazardous waste which is relevant to the positions in which they

are employed and submit copies of the training program and attendance sheet to the OC&I;

- (8) Develop and maintain a hazardous waste contingency plan for the Facility that includes all of the applicable information contained in the DEM's Hazardous Waste Regulations 5.13J and submit a copy to the OC&I **OR** designate 1 employee to act as an emergency coordinator; post the name and phone numbers for the emergency coordinator, the local fire department, the DEM, the National Response Center and the company's environmental contractor near all phones in the Facility; and conspicuously mark the location of all fire and spill control equipment;
- (9) Maintain a copy of each manifest prepared for waste shipments onsite and submit copies of all manifests completed in the last 3 years to the OC&I; and
- (10) Submit the names and signatures of all agents authorized to sign the uniform hazardous waste manifests to the OC&I.

E. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

\$52,795

- (2) The proposed administrative penalty is calculated pursuant to the DEM's *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the DEM within 30 days of your receipt of the NOV. Payment shall be in the form of a certified check, cashiers check or money order made payable to the "General Treasury - Environmental Response Fund," and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against the Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the DEM determines that reasonable efforts have been made to comply promptly with this NOV.

F. Right to Administrative Hearing

(1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before the DEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Paragraphs B through E above. All requests for hearing MUST:

- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
- (b) Be **RECEIVED** by the DEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of this NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
DEM - Administrative Adjudication Division
One Capitol Hill, 2ND Floor
Providence, RI 02903

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.

(2) A copy of each request for hearing must also be forwarded to:

Tricia Quest, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767

(3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.

(4) Each respondent must file a separate and timely request for an administrative hearing before the DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (v) and 42-17.6-4(b) and (c).

- (5) Failure to comply with this NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) This NOV does not preclude the DEM from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Tricia Quest at the DEM Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Tracey Tyrrell of the DEM Office of Compliance and Inspection at (401) 222-1360 ext. 7407.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section F above.

FOR THE DIRECTOR

David E. Chopy, Chief
DEM Office of Compliance and Inspection

Date: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

Michael D. Squillace, Jr. d/b/a Vanity Cleaners
1658 Cranston Street
Cranston, RI 02920-5037

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, HAZARDOUS WASTE

File No.: OCI-HW-14-117

Respondent: Michael D. Squillace, Jr. d/b/a Vanity Cleaners

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
C (1) – Storage of Hazardous Waste for Greater than 180 Days	Type I (\$25,000 Max. Penalty)*	Moderate	\$12,500	1 violation	\$12,500
C (2) & (3) – 180 Day Container Management	Type I (\$25,000 Max. Penalty)*	Moderate	\$6,250	2 violations	\$12,500
C (4) – Satellite Container Labeling	Type I (\$25,000 Max. Penalty)*	Minor	\$5,000	1 violation	\$5,000
C (5) – Aisle Space	Type II (\$12,500 Max. Penalty)*	Moderate	\$2,500	1 violation	\$2,500
C (6) – Weekly Inspections	Type I (\$25,000 Max. Penalty)*	Minor	\$5,000	1 violation	\$5,000
C (7) & (8) – Training & Contingency Plan	Type I (\$25,000 Max. Penalty)*	Moderate	\$6,250	2 violations	\$12,500
C (9) – Record Keeping	Type II (\$12,500 Max. Penalty)*	Minor	\$2,500	1 violation	\$2,500
SUB-TOTAL					\$52,500

*Maximum Penalties represent the maximum penalty amounts per day, per violation.

ADMINISTRATIVE PENALTY SUMMARY (continued)

ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT ARE IN COMPLIANCE. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE; OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

DESCRIPTION OF BENEFIT	CALCULATION		AMOUNT
<p>The economic benefit of noncompliance identified by the DEM for storing hazardous waste for greater than 180 days and for failing to provide hazardous waste training to employees. The cost associated with proper disposal of hazardous waste was obtained by surveying a local vendor. The cost associated with providing personnel with required training were derived from the EPA "Estimating Costs for the Economic Benefits of RCRA Noncompliance", updated December 1997.</p> <p>The economic benefit was calculated by utilizing an EPA computer model entitled "BEN". The model calculates the economic gain of noncompliance by performing a detailed economic analysis. The dates, dollar amounts and values used in this analysis are as listed in this table.</p>	<ul style="list-style-type: none"> ▪ Profit Status ▪ Filing Status ▪ Initial Capital Investment ▪ One-time Non-depreciable Expense ▪ First Month of Noncompliance ▪ Compliance Date ▪ Penalty Due Date ▪ Useful Life of Pollution Control Equipment ▪ Annual Inflation Rate ▪ Discount Compound Rate 	<p>C-Corporation C-Corporation \$0 \$1,247 – HW Disposal \$1,800 – Training May 2014 – HW Disposal December 2011 – Training May 31, 2015 May 31, 2015 N/A N/A 7.8%</p>	<p>\$295</p>
SUB-TOTAL			\$295

COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that the DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$52,795

PENALTY MATRIX WORKSHEET

CITATION: Storage of Hazardous Waste for Greater than 180 Days
 VIOLATION NO.: C (1)

TYPE		
<u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.

DEVIATION FROM THE STANDARD
 THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** The Respondent stored hazardous waste onsite in non-satellite accumulation containers for greater than the 180 days without a permit from the DEM. The DEM's Hazardous Waste Regulations establish time limits allowing generators to temporarily store hazardous waste without obtaining a permit. A hazardous waste storage permit requires owners and operators of facilities designated to store and manage hazardous waste to install and maintain safety equipment to minimize the possibility of fires, explosions or unplanned releases involving the waste. The requirement to obtain a hazardous waste storage permit is a major component of the regulatory program.
- (B) **Environmental conditions:** Considered, but not utilized for this calculation.
- (C) **Amount of the pollutant:** Seven 15-gallon containers holding tetrachloroethylene.
- (D) **Toxicity or nature of the pollutant:** Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.
- (E) **Duration of the violation:** Full duration unknown - the Respondent stated that the waste has been onsite for at least 1 year.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

(continued)

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by shipping the hazardous waste offsite to a licensed facility. On 24 December 2014, the Respondent shipped 6 containers holding hazardous waste offsite to a licensed facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 25 January 2002, the DEM issued a notice of violation to the Respondent for storing hazardous waste onsite for greater than the applicable accumulation time limit.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	<u> X </u> MODERATE	MINOR
--------------	------------------------------	--------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: 180 Day Container Management

VIOLATION NO.: C (2) & (3)

TYPE		
<p><u> </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM's <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: The Respondent failed to mark 180 day containers holding hazardous waste with the date upon which the waste first began to accumulate and failed to label the containers. State and federal regulations require generators to track the length of time that hazardous waste accumulates onsite. The requirement to track accumulation of hazardous waste provides a means for facility personnel and regulatory agencies to ensure compliance with waste storage time limits. The requirement to label containers holding hazardous waste is an integral part of the regulatory program because it reduces the potential for mismanagement of waste. Proper labeling of waste containers provides important information regarding the chemical properties of the waste for emergency responders who may be called to a facility during a fire, spill or release.</p> <p>(B) Environmental conditions: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: Seven 15-gallon containers holding tetrachloroethylene.</p> <p>(D) Toxicity or nature of the pollutant: Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - the Respondent stated that the waste has been onsite for at least 1 year.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by dating and labeling the containers. On 24 December 2014, the Respondent shipped 6 containers holding hazardous waste offsite to a licensed facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 25 January 2002, the DEM issued a notice of violation to the Respondent for failing to label and date containers holding hazardous waste.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	<u> X </u> MODERATE	MINOR
--------------	------------------------------	--------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Satellite Container Labeling

VIOLATION NO.: C (4)

TYPE		
<p><u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Section 10 (a) (2) of the DEM's <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: The Respondent failed to properly label satellite accumulation containers holding hazardous waste. The requirement to label containers holding hazardous waste is an integral part of the regulatory program because it reduces the potential for mismanagement of waste. Proper labeling of waste containers provides important information regarding the chemical properties of the waste for emergency responders who may be called to a facility during a fire, spill or release.</p> <p>(B) Environmental conditions: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: Two 15-gallon containers were unlabeled and one 15-gallon container was not marked with the chemical or common name of the waste.</p> <p>(D) Toxicity or nature of the pollutant: Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - the Respondent stated that the waste has been onsite for at least 1 year.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by properly labeling the containers.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u> X </u> MINOR
--------------	-----------------	----------------------------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$5,000	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Aisle Space

VIOLATION NO.: C (5)

TYPE		
<p style="text-align: center;"><u> </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u> X </u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;"><u> </u> TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Section 10 (a) (2) of the DEM's <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: The Respondent stored non satellite containers holding hazardous waste without adequate aisle space to allow for access to the containers by emergency response personnel, fire protection equipment and for inspection to ensure the containers are in good condition. The DEM's Hazardous Waste Regulations require generators to maintain a minimum of 3 feet of aisle space in container storage areas.</p> <p>(B) Environmental conditions: Considered, but not utilized for this calculation.</p> <p>(C) Amount of the pollutant: Seven 15-gallon containers holding tetrachloroethylene.</p> <p>(D) Toxicity or nature of the pollutant: Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - the Respondent stated that the waste has been onsite for at least 1 year.</p> <p>(F) Areal extent of the violation: Considered, but not utilized for this calculation.</p>		
(continued)		

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by storing the containers with adequate aisle space. On 24 December 2014, the Respondent shipped 6 containers holding hazardous waste offsite to a licensed facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 25 January 2002, the DEM issued a notice of violation to the Respondent for failing to store containers holding hazardous waste with adequate aisle space.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	<u> X </u> MODERATE	MINOR
--------------	-------------------------------------	--------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250 \$2,500	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Weekly Inspections

VIOLATION NO.: C (6)

TYPE		
<p><u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>

DEVIATION FROM THE STANDARD
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** The Respondent failed to conduct inspections of the hazardous waste non-satellite container storage area on a weekly basis. The DEM's regulations require generators to inspect areas in which hazardous waste is stored in containers onsite. The requirement for generators to inspect container storage areas enables generators to identify containers that have been damaged or deteriorated as a result of corrosion or other factors providing a safeguard against releases of hazardous waste.
- (B) **Environmental conditions:** Considered, but not utilized for this calculation.
- (C) **Amount of the pollutant:** Seven 15-gallon containers holding tetrachloroethylene.
- (D) **Toxicity or nature of the pollutant:** Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.
- (E) **Duration of the violation:** Full duration unknown - the Respondent stated that the waste has been onsite for at least 1 year.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

(continued)

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by performing weekly inspections of the containers. On 24 December 2014, the Respondent shipped 6 containers holding hazardous waste offsite to a licensed facility.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 25 January 2002, the DEM issued a notice of violation to the Respondent for failing to conduct weekly inspections of containers holding hazardous waste.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u> X </u> MINOR
--------------	-----------------	----------------------------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250 \$5,000	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Training & Contingency Plan

VIOLATION NO.: C (7) & (8)

TYPE		
<p><u>X</u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p>TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED: Taken from Section 10 (a) (2) of the DEM's <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <p>(A) The extent to which the act or failure to act was out of compliance: The Respondent failed to provide hazardous waste management training to employees who work with hazardous waste and failed to develop and maintain a contingency plan. The DEM's regulations require generators to provide hazardous waste training that teaches employees to perform their duties in a manner that ensures compliance with the regulations. Hazardous waste management training helps ensure that the facility will be operated in compliance with the regulations and reduces the potential for spills or releases of hazardous waste by teaching employees proper waste handling practices. The DEM's regulations require generators to develop and maintain a contingency plan containing procedures to follow to minimize hazards posed to human health and the environment from fires, explosions or planned or unplanned releases involving hazardous waste. A contingency plan reduces the potential for injury of employees and/or response personnel that may be called upon for assistance during a fire, spill or release incident.</p> <p>(B) Environmental conditions: Considered, but not utilized in this calculation.</p> <p>(C) Amount of the pollutant: Seven 15-gallon containers holding tetrachloroethylene.</p> <p>(D) Toxicity or nature of the pollutant: Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.</p> <p>(E) Duration of the violation: Full duration unknown - the Respondent stated that the waste has been onsite for at least 1 year.</p> <p>(F) Areal extent of the violation: Considered, but not utilized in this calculation.</p>		
(continued)		

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable steps to prevent or mitigate the noncompliance by providing training to its employees and by developing a contingency plan.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 25 January 2002, the DEM issued a notice of violation to the Respondent for failing to develop a hazardous waste contingency plan and failing to provide training to its employees.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized in this calculation.

MAJOR	<u>X</u> MODERATE	MINOR
--------------	--------------------------	--------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Record Keeping

VIOLATION NO.: C (9)

TYPE		
<u> </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> X </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.

DEVIATION FROM THE STANDARD
 THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Section 10 (a) (2) of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (A) **The extent to which the act or failure to act was out of compliance:** The Respondent failed to maintain copies of hazardous waste manifests for a period of 3 years. State regulations require generators to keep copies of manifests for a period of 3 years and make them available for review during an inspection. Hazardous waste manifests are required to provide the "cradle to grave" tracking system that ensures hazardous waste is properly disposed of at licensed facilities.
- (B) **Environmental conditions:** Considered, but not utilized for this calculation.
- (C) **Amount of the pollutant:** Seven 15-gallon containers holding tetrachloroethylene.
- (D) **Toxicity or nature of the pollutant:** Tetrachloroethylene is likely to be carcinogenic to humans and possess a potential human health hazard for non-cancer toxicity to the central nervous system, kidney, liver, immune and hematologic system.
- (E) **Duration of the violation:** Full duration unknown - at least 3 years. The Respondent stated that no hazardous waste has been shipped in 1 ½ years and the last record DEM has of a hazardous waste shipment was on 12 December 2011.
- (F) **Areal extent of the violation:** Considered, but not utilized for this calculation.

(continued)

(continued from the previous page)

- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** The Respondent failed to take reasonable and appropriate steps to prevent the violation by maintaining copies of manifests for a period of 3 years.
- (H) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** On 25 January 2002, the DEM issued a notice of violation to the Respondent for failing to maintain copies of hazardous waste manifests for a period of 3 years.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** The Respondent had complete control over the occurrence of the violation and failed to take steps to prevent the occurrence.
- (J) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u>X</u> MINOR
--------------	-----------------	------------------------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500 \$2,500	\$250 to \$1,250